Reg. No. KL/TV(N)/[illegible]

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Friday, 9th December 1983 / 18th Agrahayana 1905 [No. 1493

REPORT OF THE SUBJECT COMMITTEE

ON

THE KERALA REVENUE RECOVERY (AMENDMENT) BILL, 1983

AND

THE BILL AS REPORTED BY THE SUBJECT COMMITTEE

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/5350/MC.

THE KERALA REVENUE RECOVERY (AMENDMENT) BILL, 1983

(Report of the Subject Committee)

Subject Committee II—Land Revenue, Forests and Fisheries to which the Kerala Revenue Recovery (Amendment) Bill, 1983 was referred, considered the Bill clause by clause and now submit this, its report with the Bill as reported by the Committee annexed thereto.

2. The Kerala Revenue Recovery (Amendment) Bill, 1983 was published as a Gazette Extraordinary dated November 14, 1983. The Bill was introduced in the Assembly on November 29, 1983 and was referred to the Subject Committee on November 30, 1983.

3. The Committee considered the Bill clause by clause at its meeting held on December 6, 1983.

4. The Committee recommended to adopt the Bill without any change.

P. J. Joseph,
Chairman,
Subject Committee—II.

THE KERALA REVENUE RECOVERY (AMENDMENT) BILL, 1983

(As reported by the Subject Committee)

A

BILL

to amend the Kerala Revenue Recovery Act, 1968.

Preamble.—WHEREAS it is expedient to amend the Kerala Revenue Recovery Act, 1968, for the purposes hereinafter appearing;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Revenue Recovery (Amendment) Act, 1983.

(2) It shall be deemed to have come into force on the 22nd day of February, 1983.

2. *Amendment of section* 7.—In section 7 of the Kerala Revenue Recovery Act, 1968 (15 of 1968) (hereinafter referred to as the principal Act), for the words "shall show the demand in writing to the defaulter", the words "shall serve the demand in writing on the defaulter" shall be substituted.

3. *Amendment of section* 74.—In section 74 of the principal Act, for the words "notice or order", wherever they occur, the words "notice, demand or order" shall be substituted.

4. *Repeal and saving.*—(1) The Kerala Revenue Recovery (Amendment) Ordinance, 1983 (28 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Secretariat of the Kerala
Legislature, Trivandrum,
December 9, 1983.

DR. R. PRASANNAN,
Secretary.

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Reg. No. KL/TV(N)/

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Friday, 9th December 1983 / 18th Agrahayana 1905 [No. 1495

REPORT OF THE SUBJECT COMMITTEE

ON

THE UNIVERSITY LAWS (AMENDMENT) BILL, 1983

AND

THE BILL AS REPORTED BY THE

SUBJECT COMMITTEE

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1983.

33/5349/MC.

THE UNIVERSITY LAWS (AMENDMENT) BILL, 1983

(Report of the Subject Committee)

Subject Committee VI—Social Services to which the University Laws (Amendment) Bill, 1983 was referred, has considered the Bill and submits this its report with the Bill as reported by the Committee annexed thereto.

2. The University Laws (Amendment) Bill, 1983 was published as a Gazette Extraordinary dated November 18, 1983. The Bill was introduced in the Assembly on November 28, 1983 and was referred to the Committee on November 29, 1983.

3. The Committee considered the Bill at the meeting held on December 1, 1983.

4. The Committee recommended that the Bill may be adopted.

5. The Minutes of Dissent received in the matter is hereinafter added.

K.P. RAMACHANDRAN NAIR,

Chairman,

Subject Committee—VI.

MINUTES OF DISSENT

In cases of amendments to legislation to tide over difficulties arising out of judgments of Court of Law they must confine to such situation only. The present amendment goes much beyond the scope and purpose. This amendment undermines the scheme and time schedule incorporated in the Act. If this amendment becomes part of the Act the proceedings in future in the matter of opening of new colleges and starting of new courses will be an arbitrary act decided by Government from time to time which besides opening the floodgates of favouritism and such other corrupt practices deny equality of opportunity, equal treatment and opportunity for prior information to all interested persons. To meet the situation arising out of the judgment a separate proviso may be inserted in the relevant section of the Act so that the action taken can be validated.

This amendment subverts the basic concept of autonomy of universities in their sphere and this appears to be the motive of this amendment.

The present amendment is unnecessary. The original provisions in the Act may be retained.

We, therefore, dissent on the recommendation of the Subject Committee on the Kerala Universities (Amendment) Bill, 1983.

E. Padmanabhan	(Sd.)
C. K. Thankappan	(Sd.)
K. P. Raman	(Sd.)
Bhargavi Thankappan	(Sd.)
Dr. A. Subba Rao	(Sd.)
T.P. Peethambaran Master	(Sd.)

THE UNIVERSITY LAWS (AMENDMENT) BILL, 1983

(As reported by the Subject Committee)

A

BILL

further to amend the Kerala University Act, 1974 and the Calicut University Act, 1975.

Preamble.—WHEREAS it is expedient further to amend the Kerala University Act, 1974 and the Calicut University Act, 1975, for the purposes hereinafter appearing;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the University Laws (Amendment) Act, 1983.

(2) It shall be deemed to have come into force on the 18th day of November, 1982.

2. *Amendment of Act 17 of 1974.*—In the Kerala University Act, 1974 (17 of 1974), in section 56,—

(a) in sub-section (1), after the words "affiliation to the University of any college", the words "or for affiliation in new courses in any affiliated college" shall be inserted;

(b) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) The terms and conditions of affiliation of a college or of affiliation in new courses in an affiliated college and the procedure to be followed by the Syndicate in granting such affiliation, including the period within which the Syndicate shall consider an application under sub-section (1), shall be prescribed by the Statutes:

Provided that the Chancellor may, by notification in the Gazette, for reasons to be specified in the notification, extend the period within which the Syndicate shall consider any application under sub-section (1), whether such period has already expired or not, by such further period, not exceeding one year, as may be specified in such notification.".

3. *Amendment of Act 5 of 1975.*—In the Calicut University Act, 1975 (5 of 1975), in section 56,—

(a) in sub-section (1), after the words "affiliation to the University of any college", the words "or for affiliation in new courses in any affiliated college" shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The terms and conditions of affiliation of a college or of affiliation in new courses in an affiliated college and the procedure to be followed by the Syndicate in granting such affiliation, including the period within which the Syndicate shall consider an application under sub-section (1), shall be prescribed by the Statutes:

Provided that the Chancellor may, by notification in the Gazette, for reasons to be specified in the notification, extend the period within which the Syndicate shall consider any application under sub-section (1), whether such period has already expired or not, by such further period, not exceeding one year, as may be specified in such notification.".

4. *Repeal and Saving.*—(1) The University Laws (Amendment) Ordinance, 1983 (26 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the Kerala University Act, 1974 (17 of 1974), or the Calicut University Act, 1975 (5 of 1975), as amended by the said Ordinance, shall be deemed to have been done or taken under the Kerala University Act, 1974 or, as the case may be, the Calicut University Act, 1975, as amended by this Act.

Secretariat of the Kerala
Legislature, Trivandrum,
December 9, 1983.

DR. R. PRASANNAN,
Secretary.

Government of Kerala
1983

Reg. No. KL/TV(N)

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Friday, 9th December 1983 / 18th Agrahayana 1905 [No. 1496

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 11933|LA 4A|83. *Dated, Trivandrum, 9th December, 1983.*

The Kerala Civil Courts (Amendment) Bill, 1983 together with the Statement of Objects and Reasons and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/5359/MC.

THE KERALA CIVIL COURTS (AMENDMENT) BILL, 1983

A

BILL

further to amend the Kerala Civil Courts Act, 1957.

Preamble.—WHEREAS it is expedient further to amend the Kerala Civil Courts Act, 1957, for the purpose hereinafter appearing;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Civil Courts (Amendment) Act, 1983.

2. *Amendment of section 11.*—In sub-section (2) of section 11 of the Kerala Civil Courts, Act, 1957 (1 of 1957) (hereinafter referred to as the principal Act), for the words "Five thousand rupees", the words "Fifteen thousand rupees" shall be sustituted.

3. *Amendment of section 13.*—In sub-section (1) of section 13 of the principal Act, for the words "ten thousand rupees", the words "twenty-five thousand rupees" shall be substituted.

4. *Repeal and saving.*—(1) The Kerala Civil Court (Amendment) Ordinance, 1983 (31 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the Principal Act as amended by section 2 of this Act, as if that section had come into force on the 6th day of September, 1983.

STATEMENT OF OBJECTS AND REASONS

The pecuniary jurisdiction of the Munsiff's Courts in the State was fixed at Rs. 5,000 years ago. Since then, the value of land and other subject matter of dispute has increased considerably and consequently disputes which otherwise could have been dealt with by Munsiff's Courts are taken to the Sub Courts for decision. This in turn reduces the work

load of the Munsiffs and increases that of Sub Judges causing inconvenience and hardship to the public especially in places where there are no Sub Courts. It was, therefore, proposed to enhance the pecuniary jurisdiction of Munsiff's Court to Rs. 15,000 by amending the Kerala Civil Courts Act, 1957. Though a Bill for the purpose was published as Seventh Kerala Legislative Assembly Bill No. 18, the same could not be introduced in, and passed by the Legislative Assembly for want of time.

2. Since the Legislative Assembly was not in session and as it was considered necessary to give effect to the proposed amendment immediately in the interest of administration of justice the Kerala Civil Courts (Amendment) Ordinance, 1983 (31 of 1983), was promulgated by the Governor on the 5th day of September, 1983, for the purpose.

3. Under sub-section (1) of section 13 of the Kerala Civil Courts Act, 1957, the pecuniary limit for the appellate jurisdiction of a District Court from the original orders and decrees of a Subordinate Judge's Court is Rs. 10,000. Consequent on the enhancement of the pecuniary jurisdiction of the Munsiff's Court from Rs. 5,000 to Rs. 15,000 no suit the amount or value of the subject matter of which is less than Rs. 10,000 will be filed in the Subordinate Judge's Court. It is, therefore considered necessary to enhance the pecuniary limit for appellate jurisdiction of a District Court also from the original orders and decrees of a Subordinate Judge's Court from Rs. 10,000 to Rs. 25,000.

4. The Bill seeks to replace the said Ordinance with the above modification.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

VAYALAR RAVI

Reg. No. KL/TV [illegible]

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Friday, 9th December 1983 / 18th Agrahayana 1905 (Saka) [No. 1497

കേരള സർക്കാർ

ട്രാൻസ്പോർട്ട്, ഫിഷറീസ് ആൻറ് പോർട്ട്സ് (എച്ച്) വകുപ്പ്

തിരുത്ത് വിജ്ഞാപനം

നമ്പർ 20833/എച്ച്2/83/റ്റി. എഫ്. ആൻറ് പി.

തിരുവനന്തപുരം, 1983 നവംബർ 28.

1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്ററ് (1962-ലെ 21) 6-ാം വകുപ്പ് പ്രകാരം 1983 മാർച്ച് 21-ാംതീയതിയിലെ 332-ാം നമ്പർ കേരള അസാധാരണ ഗസററിൽ എസ്. ആർ. ഒ. 371/83 എന്ന നമ്പരായി പ്രസിദ്ധീകരിച്ച 1983 മാർച്ച് 15-ാംതീയതിയിലെ 2965/റ്റി. സി 2/83/റ്റി. എഫ്. ആൻറ് പി. എന്ന നമ്പർ പ്രഖ്യാപനത്തിൻെറ പട്ടികയിൽ,

(1) ക്രമനമ്പർ 1-ന് നേരെയുള്ള ഉരുക്കുറിപ്പുകളിൽ

"183/17-2	നിലം	0.0283"	എന്നതിനു പകരം
"183/17-2	പുരയിടം	0.0066	
183/17-2	നിലം	0.0136	
		0.0202"	എന്ന് വായിക്കുക

(2) "ആകെ. 0.1228" എന്നതിനു പകരം
"ആകെ. 0.1147" എന്ന് വായിക്കുക

ഗവർണ്ണറുടെ ഉത്തരവിൻപ്രകാരം
വി. എ. അഗസ്ററിൻ,
ഗവൺമെൻറ് അഡീഷണൽ സെക്രട്ടറി.

33/5370/S

വിശദീകരണക്കുറിപ്പ്

ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമല്ല. എന്നാൽ ഇതിന്റെ ഉദ്ദേശം വ്യക്തമാക്കാനുദ്ദേശിച്ചുള്ളതാണ്.

മേൽവിവരിച്ച സർവ്വെ നമ്പരിലുള്ള ഭൂമിയുടെ ഇപ്പോഴത്തെ കിടപ്പനുസരിച്ച് പ്രസ്തുത ഭൂമിയിൽപ്പെട്ട 00.66 ആർ സ്ഥലം പുരയിടവും 01.36 ആർ സ്ഥലം നിലവുമാണ്. അതിനാലാണ് ഈ വിജ്ഞാപനം.

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVIII] Trivandrum, Friday, 9th December 1983 / 18th Agrahayana 1905 [No. 1494

REPORT OF THE SUBJECT COMMITTEE

ON

THE SUPER CLAYS AND MINERALS MINING COMPANY (PRIVATE) LIMITED (ACQUISITION OF UNDERTAKINGS) BILL, 1983

AND

THE BILL AS REPORTED BY THE SUBJECT COMMITTEE

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1983.

33/5351/MC

THE SUPER CLAYS AND MINERALS MINING COMPANY (PRIVATE) LIMITED (ACQUISITION OF UNDERTAKINGS) BILL, 1983

(Report of the Subject Committee)

Subject Committee IV—Industry and Minerals to which the Super Clays and Minerals Mining Company (Private) Limited (Acquisition of Undertakings) Bill, 1983 was referred, considered the Bill clause by clause and now submit this, its report with the Bill as reported by the Committee annexed thereto.

2. The Super Clays and Minerals Mining Company (Private) Limited (Acquisition of Undertakings) Bill, 1983 was published as a Gazette Extraordinary dated December 3, 1983. The Bill was introduced in the Assembly on December 6, 1983 and was referred to the Subject Committee on the same day.

3. The Committee considered the Bill clause by clause at its sitting held on December 6, 1983.

4. The Committee recommended to adopt the Bill with the following corrections in the Schedule:—

> "The date 31-12-1976 appearing in items 2, 3 & 4 of the Schedule will be changed into 31-12-1975".

E. Ahamed,

Chairman,
Subject Committee IV.

THE SUPER CLAYS AND MINERALS MINING COMPANY (PRIVATE) LIMITED (ACQUISITION OF UNDERTAKINGS) BILL, 1983

(As reported by the Subject Committee)

A

BILL

to provide for the acquisition and transfer of the undertakings of the Super Clays and Minerals Mining Company (Private) Limited, with a view to securing the proper management of such undertakings so as to subserve the interests of the general public by ensuring the continued production and distribution of china clay which is essential to the needs of the economy of the State, as and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS the Super Clays and Minerals Mining Company (Private) Limited has at present the ownership of, and control over, a significant portion of the china clay produced in the State and marketed and distributed in India;

AND WHEREAS the production of china clay by the Company had stopped from the year 1975 resulting in fall in production of the china clay which is essential to the needs of the economy of the State;

AND WHEREAS the Company was not in a position to pay wages to its workers in consequence of which it declared a lay-off with effect from the 13th January, 1975, resulting in the unemployment of about six hundred workers directly employed in the undertakings of the Company;

AND WHEREAS the Government of Kerala with the consent of the shareholders of the Company, took over the management of the Company and declared the Company as a relief undertaking under the provisions of the Kerala Relief Undertakings (Special Provisions) Act, 1961 (6 of 1962), with effect from the 2nd March, 1976, and entrusted the management of the Company to the Kerala State Industrial Enterprises Limited which is a Government Company;

AND WHEREAS it is expedient in the public interest to acquire the undertakings of the said Company to ensure that the interests of

the general public are served by the continuance by the undertakings of the Company, of the production and distribution of china clay which is essential to the needs of the economy of the State;

BE it enacted in the Thirty-fourth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Super Clays and Minerals Mining Company (Private) Limited (Acquisition of Undertakings) Act, 1983.

(2) It shall be deemed to have come into force on the 5th day of November, 1983.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date of commencement of this Act;

(b) "Commissioner" means the Commissioner of Payments appointed under section 14;

(c) "Company" means the Super Clays and Minerals Mining Company (Private) Limited, being a company within the meaning of the Companies Act, 1956 (Central Act 1 of 1956) and baving its registered office at Cannanore;

(d) "Custodian" means the person or body of persons appointed as Custodian under sub-section (2) of section 8;

(e) "Covernment Company" means the Covernment Company in which the undertakings of the Company are directed to vest under section 6;

(f) "Hindustan China Clay Works" means the concern known under the name and style "Hindustan China Clay Works, Pappinissery" and includes the proprietors or owners thereof;

(g) "prescribed" means prescribed by the Government by rules made under this Act;

(h) "specified date" means such date as the Government may for the purpose of any provisions of this Act, by notification in the Gazette, specify, and different dates may be specified for different provisions of this Act;

(i) words and expressions used herein and not defined but defined in the Companies Act, 1956 (Central Act 1 of 1956), shall have the meanings respectively assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

3. *Transfer and vesting in the Government of the undertakings of the Company.*—On the appointed day, the undertakings of the Company, the right, title and interest of the Company in relation to its undertakings and, save as otherwise expressly provided in this Act, the liabilities of the Company in relation to its undertakings, shall, by virtue of this Act, stand transferred to, and shall vest in, the Government.

4. *General effect of vesting.*—(1) The undertakings of the Company shall be deemed to include—

(a) all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, cheques, demand drafts, reserve funds, investments, book debts and all other rights and interests in, or arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of the Company.

(b) all properties, rights and interests of the Hindustan China Clay Works purported to have been transferred to the Company by the Memorandum of Agreement made on the 2nd day of January, 1973, between the Hindustan China Clay Works and the Company; and

(c) all books of account, registers and all other documents of whatever nature relating to the undertakings mentioned in clauses (a) and (b).

(2) Every mortgagee of any property which has vested under this Act in the Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(3) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, from the Government or, where the undertakings of the Company are directed under section 6 to vest in a Government Company, from that Government Company.

(4) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Government under section 3 at any time before the appointed day and in force immediately before that day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and, on and from the date of vesting of such undertaking under section 6 in a Government Company, such Government Company shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to such Government Company and that Government Company shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Government under section 3, instituted or preferred by or against the Company, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted, or enforced by or against the Government, or where the undertakings of the Company are directed, under section 6, to vest in a Government Company, by or against that Government Company.

5. *Government not to be liable for certain prior liabilities.*—No liability incurred by the Company before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Government, or, where the undertakings of the Company are directed under section 6, to vest in a Government Company, against that Government Company.

6. *Power of Government to direct vesting of the undertakings of the Company in a Government Company.*—(1) Notwithstanding anything contained in sections 3 and 4, the Government may, subject to such terms and conditions as they may think fit to impose, direct, by notification in the Gazette, that all the undertakings of the Company and the right, title, interest and liabilities of the

Company in relation to its undertakings which have vested in the Government under section 3, except any undertaking or undertakings specified in the notification and the right, title, interest and liabilities in relation to the undertaking or undertakings so specified, shall, instead of continuing to vest in the Government, vest in a Government Company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title, interest and liabilities of the Company in relation to all or any of its undertakings vest in a Government Company under sub-section (1), the Government Company shall, on and from the date of such vesting, be deemed to have become the owner in relation to the undertaking so vested, and all the rights and liabilities of the Government in relation to such undertaking, shall, on and from the date of such vesting, be deemed to have become the rights and liabilities of the Government Company.

CHAPTER III

PAYMENT OF AMOUNTS

7. *Payment of amount.*—(1) For the transfer to, and vesting in, the Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be given by the Government in the manner specified in Chapter VI, an amount of ten lakhs, forty-three thousand, two hundred and forty-five rupees and ninety-seven paise.

(2) The amount specified in sub-section (1) shall carry simple interest at the rate of eight per cent per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Government to the Commissioner.

(3) For the removal of doubts, it is hereby declared that the liabilities of the Company specified in the Schedule in relation to its undertakings, which have vested in the Government under section 3, shall be discharged from the amount referred to in sub-section (1) in accordance with the rights and interests of the creditors of the Company.

(4) The liabilities of the Company in relation to its undertakings which have vested in the Government under section 3 and not specified in the Schedule shall be discharged by the Government as and when they fall due for payment.

Chapter IV

MANAGEMENT, Etc., OF THE UNDERTAKINGS OF THE COMPANY

8. *Management, etc., of the undertakings of the Company.*—(1) The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title, interest and liabilities in relation to which have vested in the Government under section 3, shall,—

(a) where a direction has been made by the Government under sub-section (1) of section 6, vest in the Government Company specified in such direction; or

(b) where no such direction has been made by the Government, vest in a Custodian appointed by the Government under sub-section (2), and thereupon the Government Company or the Custodian, as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

(2) The Government may appoint any individual or body of persons as Custodian of the undertakings of the Company in relation to which no direction has been made by them under sub-section (1) of section 6.

(3) The Custodian shall receive, from the funds of the undertakings of the Company, such remuneration as the Government may fix and shall hold office during the pleasure of the Government.

(4) Notwithstanding anything contained in sub-sections (1) and (2), where any undertaking has been specified in a notification under sub-section (1) of section 6, the Custodian shall not be entitled to exercise any power or to do any other thing in relation to such undertaking.

9. *Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.*—(1) On the vesting of the management of the undertakings of the Company in a Government Company or on the appointment of a Custodian, all persons in charge of the management of the undertakings of the Company immediately before such vesting or appointment, shall be bound to deliver to the Government Company or the Custodian, as the case may be, all assets, books of account, registers or other documents in their custody relating to the undertakings of the Company, or, as the case may be, any part thereof:

Provided that in the case of any undertaking specified in the notification under sub-section (1) of section 6, such assets, books of account, registers and other documents shall be delivered to an officer specified by the Government in this behalf.

(2) The Government may issue such directions as they may deem desirable in the circumstances of th case to the Government Company or the Gustodian, and the Government Gompany or the Custodian may also, if it is considered necessary so to do, apply to the Government at any time for instructions as to the manner in which the management of the undertakings of the Gompany shall be conducted or in relation to any other matter arising in the course of such management.

10. *Duty of persons to account for assets, etc., in their possession.*—(1) Any person who has, on the appointed day, in his possession or under his control any assets, books, documents or other papers relating to any undertaking owned by the Gompany, which have vested in the Government or in a Government Gompany under this Act, and which belong to the Company, or would have so belonged if the undertaking owned by the Company had not vested in the Government or such Government Company, shall be liable to account for the said assets, books, documents and other papers to the Government or the Government Company and shall deliver them upto the Government or the Government Company, as the case may be, or to such person or persons as the Government or the Government Company may specify in this behalf.

(2) The Government or the Government Company may take or cause to be taken all necessary steps for securing possession of the undertakings of the Company which have vested in the Government or the Government Gompany under this Act.

(3) The Company shall, within such period as the Government may allow in this behalf, furnish to the Government a complete inventory of all its properties, assets and liabilities, as on the appointed day, pertaining to the undertakings which have vested in the Government under section 3, and, for this purpose, the Government or the Government Company shall afford to the Company all reasonable facilities.

11. *Accounts and audit.*—The Gustodian shall maintain an account of the undertakings of the Company in such form and manner and under such conditions as may be prescribed.

Chapter V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

12. *Continuance of employees.*—(1) Every person who has been, immediately before the appointed day, employed in any undertaking of the Gompany shall become,—

(a) on and from the appointed day, an employee of the Government, and

(h) where the undertakings of the Company are directed under sub-section (1) of section 6 to vest in a Government Company, an employee of the Government Company on and from the date of such vesting,

and shall hold office or service under the Government or the Government Company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Government or the Government Company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Government or the Government Company, as the case may be.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of the Company to the Government or the Government Company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

13. *Provident fund and other funds.*—(1) Where the Company has established a provident fund, superannuation fund, welfare fund or other fund for the benefit of the persons employed in any of its undertakings, the monies relatable to the officers or other employees whose services have become transferred by or under this Act to the Government or the Government Company, shall, out of the monies standing on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and shall vest in, the Government or the Government Company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Government or the Government Company, as the case may be, shall be dealt with by the Government or the Government Company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

14. *Appointment of Commissioner of Payments.*—(1) The Government shall, for the purpose of disbursing the amount payable under section 7, by notification in the Gazette, appoint a Commissioner of Payments.

(2) The Government may appoint such other persons as they may think fit to assist the Commissioner in the exercise of the powers conferred on the Commissioner under this Act.

(3) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of the State of Kerala.

15. *Payment by Government to the Commissioner.*—(1) The Government shall, within forty-five days from the appointed day, pay in cash to the Commissioner, for payment to the Company—

(a) an amount equal to the amount specified in sub-section (1) of section 7; and

(b) an amount equal to the amount of interest determined in accordance with the provisions of sub-section (2) of that section.

(2) A deposit account shall be opened by the Government in favour of the Commissioner in the Public Account of the State and any amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertakings of the Company in relation to which payment has been made to him under this Act.

(4) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall be credited to the Government after settlement of the claims.

16. *Certain powers of the Government or the Government Company.*—The Government or the Government Company, as the case may be, shall be entitled to receive, upto the specified date, to the exclusion of all other persons, any money due to the Company in relation to its undertakings which have vested in the Government or the Government Company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

17. *Claims to be made to the Commissioner.*—Every person having a claim against the Company with regard to any of the matters specified in the Schedule pertaining to any undertaking owned by it shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from prefering the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

18. *Examination and admission or rejection of claims.*—(1) On receipt of the claims made under section 17, the Commissioner shall examine the claims.

(2) After examining the claims with reference to the items specified in the Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim.

(3) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of a daily newspaper in the English language having circulation in the major part of the State of Kerala and in one issue of any daily newspaper in the Malayalam language, as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(4) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(5) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order in writing, admit or reject the claim in whole or in part:

Provided that the Commissioner shall apportion the amount placed at his disposal in case the total admitted claims are found to be in excess of the amount placed at his disposal.

19. *Power of Commissioner to regulate his procedure, etc.*—(1) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the exercise of his powers and the discharge of his functions under this Act, including the place or places at which he may hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the receipt of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(2) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860) and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

20. *Appeal by claimants.*—A claimant who is dissatisfied with the decision of the Commissioner under section 18 may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situate.

21. *Disbursement of money by the Commissioner to claimants.*—After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and on such payment, the liability of the Government or the Government Company in respect of such claim shall stand discharged.

22. *Disposal of the balance amount.*—If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall remit such balance to the Government.

23. *Right of Government to retain machinery, equipment, etc., not belonging to the Company.*—Where the possession of any machinery, equipment or other property, has vested in the Government or a Government Company under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Government or the Government Company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

24. *Undisbursed or unclaimed amount to be deposited to the general revenue account.*—Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, to the general revenue account of the Government, but a claim to any money so transferred may be preferred to the Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

25. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

26. *Penalties.*—Any person who,—

(a) having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property from the Government or the Government Company; or

(b) wrongfully obtains possession of, or retains, any property forming part of the undertakings of the Company; or

(c) wilfully withholds or fails to furnish to the Government or the Government Company or any person or body of persons specified by the

Government or the Government Company, any document relating to such undertakings, which may be in his possession, custody or control; or

(d) fails to deliver to the Government or the Government Gompany or any person or body of persons specified by the Government or the Government Company, any assets, books of account, registers or other documents in his possession custody or control, relating to the undertakings of the Company; or

(e) wrongfully removes or destroys any property forming part of the undertakings of the Gompany or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inacucrate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

27. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm.

28. *Protection of action taken in good faith.*—(1) No suit, prosecution, or other legal proceeding shall lio against the Government or any officer or other employee of the Government or the Custodian or the Government Gompany or any officer or other person authorised by the Government, the Custodian or the Government Gompany for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Covernment or any officer or other employee of the Government or the Custodian or the Government Company or any officer or other person authorised by the Government, the Gustodian or the Government Gompany for any damage

caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

29. *Delegation of powers.*—(1) The Government may, by notification in the Gazette, direct that all or any of the powers exercisable by them under this Act other than the power conferred by section 30 or section 31 may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Government.

30. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (2) of section 4;

(b) the form and manner in which, and the conditions under which, the Gustodian shall maintain the accounts as required by section 11;

(c) the manner in which the monies in any provident fund or other fund referred to in section 13 shall be dealt with;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

32. *Repeal and saving.*—(1) The Super Clays and Minerals Mining Company (Private) Limited (Acquisition of Undertakings) Ordinance, 1983 (38 of 1983), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

THE SCHEDULE

(*See* sections 7, 17, 18 and 22)

1. Paid up Capital of the Company
2. Sundry creditors as on 2-3-1976 (as per audited Balance Sheet as on 31-12-1975)
3. Other liabilities as on 2-3-1976 (as per audited Balance Sheet as on 31-12-1975)
4. Unsecured loans as on 2-3-1976 (as per audited Balance Sheet as on 31-12-1975).

Secretariat of the Kerala
Legislature, Trivandrum,
December 9, 1983.

DR. R. PRASANNAN,
Secretary.